

IN SENATE OF THE UNITED STATES,

JANUARY 22, 1827.

Mr. JOHNSTON, of Louisiana, made the following report :

The Committee on Commerce, to whom was referred so much of the President's Message as relates to Commerce, have had the same under consideration, and now beg leave to

REPORT :

That, by the British Order in Council, of July last, the commercial intercourse between the United States and the British West India Colonies is interdicted, and the American navigation excluded from all participation in the trade between them.

This sudden and unexpected measure, adopted not only without notice, but on the eve of renewing a suspended negotiation, mutually arranged and concerted by both parties, which changes in an essential manner the commercial relations of the two countries, calls now for such corresponding measures on our part, as the new state of things and our own interest require.

The committee, without adverting either to the character of the Order in Council, the time selected for its promulgation, or the tone in which it is communicated, will present, concisely, the views which they have taken of this subject, and recommend such measures as, in their opinion, the occasion demands.

In presenting to the Senate the result of their consideration of the subject referred to them, it seems necessary to go back and review the conduct of the Government of the United States and Great Britain, during the last ten years, in regard to the measures which they have respectively adopted for the regulation of the trade of the Colonies.

By the Convention of 1815, Great Britain accepted a proposition, so far as regarded her European possessions, which the United States made to all nations, by the act of the 3d of March, 1815, for repealing, on certain conditions, the discriminating duties, by which the commerce between the United States and the British territories in Europe was placed on a footing of reciprocity.

But the intercourse between the United States and the British West Indies and the possessions on the continent of North America, was expressly excepted from these mutual regulations, and each party was to remain in the possession of its rights. Great Britain, in consequence, resorted to the system of interdiction to the admission of our vessels into her American Colonial ports.



This very exception shews that, while reserving this trade for special regulation, and refusing to adopt with regard to it the equal principles upon which the general commerce was placed, she had in view the entire monopoly ; and, accordingly, she not only claimed the exclusive trade and navigation of the Colonies, but she attempted to carry on that trade in her vessels in our productions, and through our ports, to the entire exclusion of our shipping.

Although the Colonies were dependent upon us for the necessities of life, and our markets were necessary to effect the exchanges by which she procured them, she maintained a rigorous prohibition on our navigation up to the period of 1822, except during temporary suspensions of her laws, occasioned by her necessities. The greater part of that period, an annual trade of eleven millions, one half produced and the other half consumed in the United States, employing one hundred thousand tons of shipping, with five or six thousand seamen, and forming an aggregate of freight and profit of two millions, was carried on by British navigation ; while American produce was burthened by heavy duties, even when carried by British ships, and while the vessels of European nations having Colonies were admitted, under certain limitations, into her Colonial ports.

The right set up in this case, and to which we for some time submitted, is nothing less than the assertion of the right to treat us as her Colony. This pretension, as injurious to our interest as it was offensive to the pride and feeling of the country, was maintained for seven years, and then reluctantly and partially abandoned, under the operation of retaliatory measures, to which we were forced to resort.

On the 15th of April, 1818, Congress passed an act, by which the ports of the United States were closed against British vessels, coming from British Colonial ports closed against vessels of the United States ; and by which, also, British owners were required to give bond not to land their cargoes in any of the closed ports. This was a non-intercourse, in British vessels, with ports closed by British laws against vessels of the United States. The supplementary law, of 15th May, 1820, was a non-intercourse with *all* British American Colonies, and a prohibition of *all* articles, the produce of those Colonies, except the produce of any Colony imported directly from itself.

These laws were intended to counteract the restrictive system adopted by Great Britain, and were not enacted until repeated unavailing attempts were made to settle, by negotiation, the terms of a liberal intercourse.

The effect of the several laws of the two countries was to produce an entire interruption of commercial intercourse. The Colonies were still dependent on us for supplies, and the trade opened for itself new channels, through intermediate ports, by which the articles of consumption went indirectly to the British West India ports, at prices very much advanced ; and the American navigation obtained the carrying trade, which had been before exclusively enjoyed by Great Britain. The operation of these laws was severely felt by the Colonists, in the deranged state of trade, the want of markets for their produc-



tions, and the increased value of the necessaries of life. They were loud and clamorous for relief, to which demands the Government was obliged to yield, as well as from a sense of the impolicy of her laws.

The first relaxation of the absolute and unqualified system of prohibition, and the first change in the colonial policy of restriction, was by the act of Parliament of the 24th June, 1822, which opened a certain list of enumerated ports in the British American colonies, for the importation of certain specified articles direct from the producing country, and for exportation direct to the country of the carrying vessel, and providing, also, for certain duties to be levied on certain importable articles from any *foreign* State, island, or country, and which authorized the King, in Council, to prohibit trade and intercourse with any country, if the privileges granted by this act to foreign ships, are not allowed to British ships trading to such country.

On the 6th May, 1822, Congress passed an act in anticipation of the act of Parliament last referred to, but having no precise information of the terms and conditions upon which it was contemplated to open the trade, they were obliged, in order to be prepared, to meet the views of that Government in any measure of accommodation they might adopt, to give the President of the United States the power, by proclamation, to declare the ports of the United States open to British vessels from the Colonies in the West Indies "under certain reciprocal rules and restrictions."

The President issued his proclamation 24th August, 1822, declaring the ports open to British vessels, under such restrictions as, in his opinion, corresponded with the terms on which the ports of the Colonies had been opened to American vessels. There was extreme difficulty in forming reciprocal rules and restrictions, correspondent to the restricted terms on which the trade was opened by the act of Parliament of the 24th June, 1822. The duty was, by "*reciprocal rules and restrictions*," to give "like privileges" to those conferred by their law. A very equal and active competition existed between the shipping of the two countries. The scale was nicely balanced, and the preponderance easily given. It was, therefore, a delicate operation to establish the terms of an extensive intercourse, involving so many interests, national, as well as individual, with a powerful competitor, acting upon a system of restrictions. It was impossible, from the nature of the trade and the terms proposed, to make the restrictions, on our part, the exact counterparts, or to confer exactly the same privileges, as those contained in the act of Parliament. From the existing state of things, it was impossible to limit our concessions, or to make our restrictions conform in kind to theirs. They began by a limitation to the direct trade—prohibition of important articles—admission of certain articles only, and these burthened by a heavy duty, and an export duty on the articles imported here. To open our ports by "rules reciprocal," and "with the like privileges," the President should have had the power of prohibition, and should have exercised it on their most valuable staple; the power, not of removing existing duties, but of imposing additional ones, of pre-



scribing regulations for the payment of duties and port charges, and designating the precise number of ports to be opened, equivalent to hers; which powers he did not possess. The President opened the ports on such terms as, with the best advice and most mature reflection, he deemed reciprocal in effect. If they were not like privileges, the King in Council could then have withdrawn the privileges from us, which power he did not exercise.

One important exception was made to the terms of the proclamation, in which the British Minister required the removal of the discriminating duty on foreign ships. This claim was either founded on the law of the 3d of March, 1815, or on the last act, of the 6th of May, 1822. If it was founded on the former, then no proof was furnished, such as that law required, to establish the fact, "that the discriminating or countervailing duties, so far as they operate to the disadvantage of the United States, have been abolished" in the West India Colonies. The last act of Parliament did not abolish any discriminating or countervailing duties; besides, it was thought that the law of 1815 was inapplicable, inasmuch as a special provision had been made for the case of the British West India Colonies, in the last act of Congress, prescribing new terms, with regard to them, adapted to their peculiar condition, and superseding, as to them, the act of 3d March, 1815. The evidence offered was not until the meeting of the next Congress, (when that subject was again referred to that body,) and was not of a satisfactory character; and Mr. Canning declined pledging himself or his Government to any declaration, that there were no discriminating duties in the enumerated ports.

He did not make his claim, in the first instance, under the law of 1815, but under the act of the 6th May, 1822, which gave the President the power to open the ports, "subject to such reciprocal rules and restrictions" as he might prescribe.

After the publication of the proclamation, a direct appeal was made to the President to remove, under the authority of this act, the discriminating duty from the British vessels arriving from the colonies, which he refused, because it was not in the competency of the President to remove or repeal duties prescribed by an act of Congress, pre-existing and independent of any restrictions imposed by any law upon the intercourse with the colonies, and which could only be revoked by the authority by which it was enacted, and in the manner prescribed by the act.

The rules and restrictions prescribed by the President, corresponded, in effect, with the terms of the act of Parliament, but there were discriminations created by this act unfavorable to American productions, such as a duty on importation, averaging 10 per cent. and on exportation to the United States of 4 per cent. duties, not pre-existing, but created by the same act, which opened the ports, which he could not countervail or counteract by any reciprocal rules. The exact or even satisfactory graduation of the privileges and restrictions contemplated by these acts, was a matter of extreme difficulty, and information was immediately communicated to the British Go-



vernment "that further measures would be indispensable on both sides, to obtain a result satisfactory to both."

This subject was submitted to Congress at their next session, with a full explanation of all the discrepancies of opinion which had occurred in the execution of the law of the preceding session, and as that law expired by its own limitation, it became necessary to act again.

On the 1st of March, 1823, Congress passed an act suspending the acts of 1818 and 1820, &c. which opens a direct trade with the enumerated British colonial ports, and authorizes the President, upon proof that no other or higher duties of tonnage or impost, or charges, &c. upon American vessels, or upon the goods, wares, and merchandise imported therein, are exacted than upon British vessels, or the like goods, wares, and merchandise imported from *elsewhere*, to issue his proclamation declaring that no other or higher duties of tonnage or impost, or charges, &c. upon British vessels coming from the said ports, or the goods, wares, and merchandise imported therein, shall be levied, than on American vessels, or the goods, wares and merchandise imported therein.

This act was passed *advisedly, and with great unanimity*, with a perfect knowledge of the point in issue between the two countries, with all the correspondence on the subject.

This law contemplated a mutual repeal of all discriminating or countervailing duties of any kind. It tendered a removal of discriminating duties imposed by our laws on British vessels in this trade, and the repeal of the impost duty imposed on our produce by their laws.

The effect of the word *elsewhere*, was discussed and well understood. It was inserted because it was the most apt and expressive word to meet the case. The import of the word was distinctly seen by the British Minister, to whom the bill was submitted on its passage. The word was intended to mean any *other* place than the place of importation, and in contradistinction to any *foreign* place.

It will be perceived, that at this stage, the two Governments came fairly to issue. The one offering an equalization of duties, by repealing the import duty on one side, and removing the alien duty on the other, while the other party insists to retain the 7th section imposing a duty of importation, and demands the removal of our duties.

The act of Congress opened the direct trade with the colonies, with no other inequality than the discriminating duty. We did not ask the repeal of their duty of importation, but proposed, if ours was inconvenient, to remove it, provided they removed theirs; which was a matter of strict justice, as, in the opinion of the Committee, will be made to appear.

At this stage, the British Government had this question in their own hands. They had the right, 1st. To let the trade remain where the laws now placed it. 2dly. To remove these restrictions mutually. 3dly. To countervail it by another equal duty. 4th. To open the trade to the rest of the world. 5th. To negotiate; and, lastly, to restore the interdict. She refused to remove her duty; she laid a



retaliatory duty equal to our alien duty ; opened her ports to the rest of the world, and has now excluded us from any participation.

Thus far the regulations of the two countries has depended on legislation. At every period in its progress, the representatives of the great interests it concerns, have been consulted, and the wisdom of Congress, aided by the experience of the Executive, has directed our course. The failure to adjust this commercial intercourse upon equal terms, has arisen from the value of the principles it involved, the intrinsic difficulty of arranging, harmoniously, all the parts of a complicated system, and the sensibility which each nation feels to its own interest.

Your Committee will present a short view of this question, and without imputing to Great Britain any thing but a proper sense of her own rights and duties, attempt to vindicate the principles which have influenced the conduct of this Government. It will be a matter of gratulation to every American citizen, to know, if it shall so appear, that the policy of the country has been *wise* and *just* and *liberal*. That we have adhered, with the dignity which becomes the character of the nation, to her rights, and that she, at least, has not been in the *wrong*, and cannot be answerable for the consequences, to whatever result it may lead.

The trade between the United States and the British Colonies was mutually advantageous to their agriculture and navigation. For seven years after the peace it was her avowed object to exclude us from any participation in its benefits. It was ours to oppose such a pretension. We have been driven into this commercial struggle, by the spirit of her legislation, which left us no option but the recognition or resistance of her exclusive, monopolizing system. When she made partial relaxations, she expected general concessions. When she offered a restricted and limited trade, she asked a free access to all our ports, a trade in all productions, and to be absolved from all restraints and burthens. We have met every overture in the spirit of liberality.

We tendered her a free commercial intercourse, which she declined to accept. When she excluded us from her Colonial ports, we closed our ports against British vessels coming from ports closed against us. When she opened her ports to a direct trade, we did the same. When she admitted our vessels with certain enumerated articles, we opened *all* our ports to *all* her productions. When she asked the removal of our discriminating duty, we required, as a precedent condition, and as a fair equivalent, the repeal of the import duty ; a discrimination highly unfavorable to our productions, as ours was to their vessels. When she offered us a fair competition in the *vessels*, we offered the same in the *vessels* and *productions* of both countries, by the removal of all unequal duties, charges, and discriminations. When she persisted in the right to levy the import duty, and to demand the repeal of our duty, and, in the spirit of retaliation, levied a similar counter-vailing duty, we, on our part, fatigued with the conflict, anxious to avoid collision, unwilling to disturb the intercourse then in successful operation, and desirous to try the effect of the experiment, declined to



proceed any further in this counteracting system, in the hope that the contemplated negotiation, which had now become indispensable, would, upon amicable explanation, lead to a satisfactory conclusion.

The distinction must be borne in mind, that we have not at any time required of her the repeal of her commercial law. We have merely refused to repeal our own.

The abstract right of Great Britain to make her own laws; to foster her Colonies; to protect her trade and navigation, was never denied, and is undeniable. So, also, have we the right, which is equally sacred and binding, of cherishing our interests and our institutions.

It has been said, that the right to supply her Colonies, and protect her productions, in her own markets, was a fundamental law of her policy, upon which was founded her colonial power and maritime strength, and which she could not surrender. And is not our trade and our navigation, which are also connected with our agriculture, equally the foundation of our strength and power? These are vital interests to both. But the policy by which she regulates those interests is founded in a system of artificial rules, which she modifies every day, to suit her purposes. There is nothing sacred in them. They change with the vicissitudes of the seasons, and the changing scenes of the political world. They have lately professed a new theory, and have, in many instances, since this discussion began, altered the colonial system, with which the rights of navigation were intimately blended. In the last fifty years this system has undergone an entire change. In the beginning, Ireland itself was a dependency, and was made subservient to the interests of the parent State; but under wiser councils she has been freed from its restraints. At that time, a rigid exclusion of the Colonies from all commercial intercourse, except with the mother country, was the fixed law of colonization, and was a part of the international law. But the act of 1825, and the very laws we have been considering, are deviations from the old code; and every session of Parliament produces some new project of innovation. A new light has broke in on legislation, which has exposed the errors of their exclusive systems. Trade must be released from the thralldom of regulation. The colonial possessions of Great Britain have become so extensive that, in the present state of the world, a new code has become necessary.

By this colonial system, while she claims her intercolonial trade, that is, the exclusive right of supplying and carrying for all her vast possessions, and, as far as she can, all commerce with them, she expects us to abandon to her the only protection we have given to our navigation.

The right to carry between the Colonies, and between Colonies and the mother country, is the right merely to the coasting trade, which we also claim to appropriate to ourselves, and which we have secured to our shipping by our laws. But it is the right of the nation which they may regulate or abolish at will, or which they may yield to the fair competition of any nation who may offer a suitable



equivalent. There is nothing sacred in the right, and England may and would do so, if it was her interest, or if the advantage was greater than the sacrifice. With her it is a question of power and profit. If it is a right which England cannot surrender, it must be a very valuable privilege which they ask us to yield to them; and if it is valuable, it was worth contending for, for exactly as it is profitable to them, is it injurious to us. We have not demanded of her to surrender any of these advantages. We merely claim to exercise ours at the same time, and in the same way.

In opening the trade of the West Indies to us, it presented the inquiry, how far such preferences as she claimed to herself were compatible with the liberal principles on which we opened the trade to her? Whether what she offered us was a just equivalent for the extensive market, and lucrative trade, which we gave her? It was a question of equivalents. Great Britain nominally opened her colonial ports to our trade and navigation. In the first place, she prohibited several articles of primary necessity and of great value, which our country produced, and then protected all the productions of her North American possessions. The balance, which she was unable to supply herself, which no other nation could furnish certainly so cheaply, and for which her colonies were dependent, she offered us; but still, burthened with a heavy duty. In return, we gave her an open unrestricted admission, with all her productions, into all our ports, where her articles met with little competition from ours. The market she opened to us, was in some articles entirely filled, and in all others partially supplied by her, from her own colonies, by her own vessels, upon terms exclusively favorable to her trade and navigation. And, in consideration of opening such ports and markets, so supplied, and under such conditions, she demands the free admission of her vessels and productions into our ports, on the same terms as our own.

It was a question, not of the right of Great Britain to lay duties and regulate her affairs; but whether, under the circumstances stated, she was warranted in demanding of us a repeal of the *alien* duties?

Congress had in view, the equalization of all duties and charges of every kind, and the free admission of the vessels and produce of each country, in the ports of the other, upon the same terms. The *like* goods, wares, and merchandise, as well as the vessels of each, should meet in the same ports on equal competition; and while the impositions on our produce in their ports remained, the discriminating duty was a necessary measure of self defence.

Your committee can perceive no foundation, either in nature or law, for the difference between colonial and other commerce; or between colonial Powers and those having no colonies. The right to regulate commerce in general, is the same as the right to regulate it for colonies. The right to open and close the ports of the colonies, is the same as the right by which she does the same thing in the ports of the mother country. They are both included in the general right, claimed by all nations, to regulate its own affairs in its own way. Upon this principle, Great Britain has the right on which she has always



practised, of maintaining a monopoly in her intercolonial trade, throughout her extensive possessions. But this right is limited to her territorial jurisdiction, and goes no further. The moment she attempts a foreign commerce, she invades the jurisdiction of another State possessing the same right.

Great Britain has an undoubted right to regulate the trade and navigation of her colonies. So have we equally the right to regulate our commercial intercourse with them. She has the right to open or close her ports. So have we also. She may grant or refuse the *indulgence* of a trade with her Colonies to foreign Powers; so may we, likewise, grant or refuse the indulgence of a trade from the Colonies of any foreign Power, to our ports. But no nation can gain any thing by the assertion of such principles. Nations are mutually dependent on each other; no one can claim any peculiar rights or exemptions, or any exclusive benefits or privileges. We are all equal. Commerce when carried on between different nations, must depend on compacts, and they must result from the mutually beneficial terms on which they are stipulated: and this in every case leads to the inquiry "what are the equal and reciprocal conditions," under which commerce may be carried on, and these conditions require the assent of both parties, each of whom owes to the other to be governed by what is just.

If, therefore, Great Britain has for seven years monopolized the trade between her Colonies and this country without compact, that at least is *intrusive*, if without equivalent, it is *unjust*, and if with permission, it is a boon. If because this state of things cannot be longer tolerated, or she cannot have this trade upon her own terms, she interdicts our commerce with her Colonies, it would seem to require no law to forbid her intrusion into our ports, but the delicacy which the law of the case would impose. But if that is not adequate, no nation could, with a proper sense of its rights and dignity, hesitate to apply the proper law to the case.

If she finds in our ports an ample market for her productions, and a cheap supply for the wants of her Colonies upon what principle of justice can she ask to appropriate to herself, without equivalent, all the advantages of the intercourse, and upon what principle of self-respect, could we permit it to a nation, who, in her own peculiar but emphatic language, "has applied the interdict to us?"

The principle of equal competition, founded on a just reciprocity, resulting, (if possible, in the nature of things,) in a fair participation, is the basis of all our laws and negotiations. We ask no advantage but what may result from our peculiar position and the character of our People.

We offer to all nations the utmost freedom of commercial intercourse, founded on principles of equality. We proceed step by step with every nation, in adapting our laws of trade to their peculiar systems, either enlarging or restraining the liberty of commerce, and graduating it by an exact scale of reciprocity, and from this rule we cannot with safety depart.

When, therefore, Great Britain, moved by whatever cause of in-



terest, necessity, or convenience, desires an intercourse between her Colonies and this country, she must consult with us on the equal, fair and mutually beneficial conditions on which both parties may engage in it, “and should any nation, (in the language of Mr. Jefferson,) contrary to our wishes, suppose it may better find its advantage, by continuing its system of prohibitions, duties, and regulations, it behoves us to protect our citizens, their commerce and navigation, by counter-prohibitions, duties, and regulations, also. Free commerce and navigation are not to be given in exchange for restrictions and vexations, nor are they likely to produce a relaxation of them.”

The attempt by mere acts of legislation, to adjust the principles of this intercourse, upon terms satisfactory to both, had proved abortive, and negotiations were, by mutual arrangements, opened in London in 1824, and, after a full discussion, the conferences were closed to give time for reference of the subject, in order to prepare for the renewal of it at a convenient time.

The instructions conformed to the principle of our laws, the removal of the alien duty on vessels, and the repeal of the duty of importation. This principle had been maintained uniformly by the acts of Congress. If there had been a disposition here to abandon the ground, or to vary the principle, it might have been done by legislation. There was no motive then, if the Executive had felt authorized, to change our position in the first instance. But in the hope that some concession or compromise might be effected, and other valuable rights secured, the navigation of the St. Lawrence was connected with it; a right which naturally pertains to the Colonial trade. The fixed policy of Great Britain, favoring and fostering her North American possessions, rendered her tenacious of the ground she had taken; and a hope was indulged, that this right, invaluable to a portion of our country, and which turned a lucrative trade within the sphere of her commerce, would be made the basis of an accommodation. But she declined to consider them together.

The first object of the negotiation was to explain and discuss the subject; to compare opinions, and, if no agreement was made, to obtain their views and propositions, to be referred here for examination, and, finally, to conclude a convention embracing all points arising out of the Colonial question.

The British Ministers presented their proposition in the paper L, and their remarks and explanations in the paper marked W. The Minister not being authorized to accept them, took them for reference to this Government, and which necessarily suspended the negotiation.

Various causes, perfectly well known to the British Government, and sufficient to evince that no intentional neglect or insensibility to the subject, but causes under the control of events, unforeseen and uncontrollable, had delayed the renewal of the negotiations.

The British Government, in their proposals, had varied the ground on which the question before stood, and had now tendered a modification on the principle of compromise, which was conceived and communicated in the most amicable sentiments, and the most sincere desire to bring this matter to a conclusion.



It presented a new question. It was the refusal to treat on our terms; and their ultimatum, accompanied, however, with pledges, that if the terms proposed operated injuriously to one party and advantageously to the other, that such additional laws and regulations should be adopted as the case required; and with assurances that they would always place us on the footing of the most favored nation, and gradually conforming, as circumstances would permit, to the law of 1815.

It involved either the abandonment of our proposition, or the interruption of the negotiations; the acceptance of the contingent proposition, or the tender of new propositions, and the consideration of what those should be.

The responsibility of the officer charged with the diplomatic relations, in concluding an arrangement affecting so many interests, required great caution in the decision, and time for reflection and consultation.

A short but busy session ensued, which left no time but for the current business of the Executive Department. At the close of the session, a new administration came into office, with an entire new organization. Our Minister (Mr. Rush) at London returned, and Mr. King immediately replaced him, and preparations were made to renew the suspended negotiation.

Embracing several subjects of great magnitude and deep interest to this country, for which it was impossible to prepare instructions *at once*, by an officer charged with extensive diplomatic and consular correspondence, considerably increased at that time, instructions were, in the first instance, given for the negotiation of the indemnity for the slaves, then of most urgent necessity; and the other instructions were to follow as soon as they could be prepared.

Mr. King arrived in England in August, 1825, in very bad health. The British Cabinet were dispersed, and not expected to reassemble until late in the season. In the mean time, Great Britain passed two acts, of June and July, which presented a new policy, and opened new considerations for the acceptance of this Government. Mr. King's indisposition continued, and finally left no hope of his being able to conduct the arduous negotiations confided to him, and, consequently, it was unnecessary to forward the instructions. Preparations, at the friendly suggestion of the British Minister, were immediately made for a joint mission, but, Mr. King desiring to return, Mr. Gallatin was appointed sole Minister, and furnished with instructions.

Considerable time had elapsed, but under circumstances occurring under the eye of the British Minister, and of which he was regularly informed. No impatience, however, was manifested, and, since the British countervailing duty of 1823, by which they put themselves, on their own principles, on an equality, we were the aggrieved party. In March, 1826, the British Minister informed this Government that the Ministers on their part, were appointed to resume, forthwith, the important negotiations pending between the two countries. He suggests, also, the propriety of joining another minister to conduct the negotiation.



No intimation was given that any change had taken place in the views or policy of the Government. No dissatisfaction with the existing state of the trade ; an ardent desire manifested to resume the negotiation, but without a remark on the delay, which they knew was unavoidable, and it was distinctly known to the British Minister that instructions would be in the hands of the Minister by the end of May, which it was thought would be as soon as Mr. Gallatin could arrive, who was to be charged with them. The instructions, without any reference to the time they were drawn up, were necessarily dated after the appointment of the Minister to whom they were directed.

Mr. Gallatin arrives, and, two days after, the Order in Council issues, without notice or explanation. An order which not only annuls all the laws to which reference has been made, [but] cutoffs abruptly, all negotiation, and all intercourse with the British West India Colonies ; which entirely changes the relation of the two countries ; is at variance with the sentiments and propositions referred to us, and irreconcilable with the invitations received during the Spring of 1826, to continue the negotiations.

Your committee have stated these occurrences, because they justify the conduct of this Government, and they forbear to make any reflections on the conduct of Great Britain.

The acts of Parliament of June and July contained the principles of a new system of colonial policy, the object of which was to facilitate the trade to the Spanish American Colonies, by entrepots in her West India Islands, upon the warehousing plan, and to open the trade to the rest of the world, who had not before enjoyed it, upon certain restrictions, but not to those (not having Colonies) who should give her like or equal privileges, but who should place her “ on a footing of the most favored nation.”

These laws were framed with views to her own general trade, both with this hemisphere and the European Continent, through her West India Colonies. It was not known or expressed to be a tender of the fixed and unalterable laws of her trade. It was not thought to contain a sine qua non, nor believed to anticipate the result of negotiations pending between us, which we were long after invited to resume. The nations who had colonies could and did accept the terms ; but, to those that had no colonies, the terms were unequal. Great Britain opens a restricted trade to her Colonies, and admits all on an equal footing. We, having no restrictions, are to admit her on the footing of the most favored nation. There is no reciprocity in this, although it is possible, under peculiar circumstances, such terms may be acceptable.

These laws were not notified to us as containing the British ultimatum, or as intended, (if not accepted,) to supersede the established regulations between us.

They contained numerous sections and great complexity ; they were imperfectly understood, differently construed, and left us ignorant of the extent of the concession we were required to make, in placing them on the “ footing of the most favored nation ;” expressions



which have given rise to so much discussion, and which are by no means settled. Nothing can be more vague and undefined than those terms, and there was no limitation to the concession in the broad construction which has been given to it. It involved, however, the acknowledgment of the points which had been always refused in the negotiations, and one, especially, which, at that time, was thought, by the most experienced merchants and statesmen, to be a dangerous experiment, and for which there was no equivalent: that is, the right to perform what has been called the triple voyage, by which she escapes from the direct voyage, and passes from England to our ports with her productions, and then takes a cargo of ours for the West Indies, and thence with colonial produce elsewhere.

After a due examination of this law, it was deemed by the Executive better to continue the negotiation, with a view, 1st, to a *permanent* regulation by treaty, when full explanations would be made and all doubts removed. 2d. In the hope of connecting with it the adjustment of the right of navigating the St. Lawrence, with which it is almost inseparably connected. 3d. Regulations with regard to colonial charges, consuls, &c. and, lastly, a respectful compliance with the expectations manifested by the British Government, in appointing Ministers to conduct the negotiations with us, (without reservation,) and to which our concurrence was invited.

The subject was brought before the Senate at the last Session. These and other reasons induced the Committee of Commerce to decline to legislate on the subject. It was then referred to another committee, who reported a bill, not to place the commerce on the terms prescribed in the act of Parliament, but to remove the discriminating duties. A majority of the Senate disapproved of the bill, believing it safer to trust the whole subject to the pending negotiations, and aware of the difficulty of fixing the regulations of trade by acts of legislation. The instructions afterwards given evince the determination of this Government, to terminate this commercial warfare with a nation with whom we have so many connexions, even at great sacrifice.

They were framed in conformity to opinions expressed by a large portion of the Senate, and, as was believed, to changes which had taken place in the public mind.

Experience has shewn that we were able to engage in a fair competition in the trade allowed us; that it was mutually beneficial. It was ascertained that Great Britain could not yield the point so long in dispute, and we had the alternative to yield, or obstinately adhere, and incur all the injury to both parties by an interruption of the intercourse.

It is believed by the Committee that, upon the principles of reciprocity, this Government has contended for its just rights. It was an effect to place our productions of agriculture in the colonial markets upon an equal footing. The surrender which has been made, is believed to be in accordance with the opinions of that interest, but under the hope, if the competition should be found prejudicial, that Great Britain will redeem her pledge made in her proposals, (marked W,) of doing us justice.



We have contended for those rights as long as the contest was useful. We have no vain pride of opinion or ambition of carrying a point. We have addressed ourselves to their reason and justice, but without success ; and we yield to the necessity, without conceding the argument, which places before us only the surrender of our opinion or the sacrifice of great interests to both parties.

It is not necessary now to reflect upon the past, except so far as to vindicate ourselves.

The question now presented is the relation in which we now stand. She has abruptly cut off the intercourse with us. The inquiry is, what measure must we adopt in this new and unexpected state of things ?

Your committee have given to this subject the attention it merited. They are obliged to pass over many remarks and reflections which arise out of the investigation of the laws, and the diplomatic intercourse connected with it in order to bring to the view of the Senate the remaining question, what measures this Government, from a sense of self respect, and the just rights of the nation, ought to adopt ?

Your committee have prepared a bill, the explanation of which will develop the opinions and motives by which they are governed. From the considerations heretofore given they recommend to open this trade upon the most liberal basis. But if Great Britain should refuse to accept the offer they recommend an entire interdiction of the intercourse.

The bill, therefore, provides that from and after the thirtieth day of September next, the ports of the United States shall be and remain closed against *any and every vessel*, arriving by sea from any port or place in the British colonies or possessions therein enumerated, (including all not embraced by the general Convention,) provided it shall not take effect or go into operation, if before that time the President shall receive satisfactory evidence, that the said Colonies and possessions are open to the admission of vessels of the United States, coming from the United States. That their vessels and cargoes are not subject to any other or higher duties or charges than British vessels and their cargoes from the United States. That the vessels of the United States may import into the colonies, from the United States, any article the produce of the United States, which a British vessel can by law import from the United States into the colonies ; and that the vessels of the United States may export to any country whatever, other than the dominions of Great Britain, any article from the said colonies, which vessels of Great Britain may export therefrom. And if the President shall receive the evidence, he shall issue his proclamation to open our ports to all vessels ; to equalize the duties and charges on American and British vessels : and, from the date of the proclamation, the acts of 1818, 1820 and 1823 shall be repealed ; and it further provides that the direct trade only may be opened on the same terms.

It will be perceived that if the terms proposed are accepted, all our laws on the subject are repealed, and the discrimination removed—that Great Britain will be no longer restricted to the direct voyage ; but that the circuitous voyage through our ports to her colonies is opened to her navigation.



This concession is understood to have been embraced in the terms of the act of Parliament of 1825. It was one of the principal difficulties that presented itself in considering the proposition of accepting the terms of that law, for whatever other undefined claims might be set up under the vague terms of that law, this was clearly embraced in it, and admitted of no doubt. A great degree of repugnance was felt by commercial men to the admission of this privilege. It was said that British vessels laden with their manufactures, would be discharged in our ports; that from thence they would take the supplies to the colonies, and from thence elsewhere.

That this would give decided advantages over us in the trade between this country and Great Britain, the extent of which could not be foreseen or calculated, and for which the colonial trade would afford no advantage worth the hazard to which this would expose our shipping. At present an opinion, entitled to great authority, prevails, that this will be a dangerous experiment. A less degree of unanimity prevails, however, now than formerly; the subject has been more particularly examined, and hopes are entertained, that we may still claim our fair share. There is a diversity of opinion upon this point, that, considering the great interest at stake, may well inspire caution. But your committee, although differing in opinion on this subject, from the best examination they are able to give it, from a desire to meet the overtures of Great Britain, and to open all the avenues to trade, have consented, in consideration of the intercourse opened from the colonies to Europe.

Your committee believe, that, having offered to Great Britain all that she can claim upon any principle, all that she is now understood at any time to have asked, and all that any independent nation can surrender, that the trade will be opened, unless she has determined to exclude us from all intercourse with her colonies, while they are open to other nations. Such a measure as that would speak a language not to be misunderstood. In the remote contingency then, that such may be her policy, we have provided an absolute interdict, to take effect at a future day, which will give her time to weigh the subject and make known her intentions.

This interdict is to take effect only in the event of her refusal to open the trade to her colonies. The refusal would draw a broad line of distinction between us and other nations, and evince a spirit of jealousy and rivalry which we cannot believe to exist, and indicate a policy at war with the liberal principles and amicable sentiments she has professed.

In considering the possibility of being driven to the enforcement of the interdict, it has become necessary to inquire into the extent to which it should be carried; and your committee believe if, contrary to expectation, Great Britain should adhere to her exclusion of our vessels under the terms proposed, there would be but one feeling and one voice in this country. The principles on which we act, the dignity of the Government, and the interests of commerce, unite in demanding an absolute and rigid non-intercourse.



If we make it partial, Great Britain will derive the benefit, and we shall lose all that is worth contending for. If we merely exclude her vessels, then her productions will still find a market here, and the colonies will find their supplies as usual from us. It will be for both parties, out of a spirit of jealousy, to lose the carrying of their own productions. This will be to give her colonies all the benefit they derive from a free trade, and will indirectly effect the avowed object of their policy, as indicated in their debates, to secure by her laws to her own shipping as large a portion of the navigation of the world as she can obtain, and what she cannot, in this way, secure to herself, to divide and diffuse among the other nations; to prevent any nation from having an undue share of it, and to throw it, if possible, into the hands of the lesser Powers. By this arrangement she obtains what she can of the trade with her colonies, by excluding us from the competition, and throws the balance into the hands of others, divided and diffused so as not to augment the power of any particular country.

It is not to be disguised that such a policy, while it subtracts from our and does not increase her navigation, preserves her preponderance by maintaining her relative strength. If it has entered into her views that we are rivals; that the natural effect of fair competition must be overcome by artificial regulations, and that what she cannot fairly obtain, must be thrown into the hands of those Powers, who excite no jealousy, in order to preserve her relative superiority, then it becomes us, without indulging any feeling of rivalry towards her, to counteract a policy so injurious to us.

The vast colonial power, the extensive commerce and the maritime strength of Great Britain, which we cannot pretend, in our infancy, to rival, excites no feeling of jealousy. But the fair trial of the enterprise and skill of two such nations is a noble contest, in which we willingly engage, not to depress her, but to improve ourselves. But if her ample means, conducted by masterly ability, and seconded by the spirit of her people is not enough, and she finds it necessary to protect herself from fair competition by regulations, prohibitions, and interdicts, we must regret, while we yield to the necessity, to be driven into a system of counteraction alike injurious to both.

Your committee cannot, therefore, hesitate to make the interdict as broad as the case requires. The British interdict leaves open the ports of her North American possessions, and so much only as suits her own peculiar system. Ours must be made to meet its operation, not its terms.

Some fears may be entertained that this may prove injurious to the agricultural interest, and that their articles will lose a market by this exclusion.

It is believed, from the best information from the most experienced merchants, that no injury will be sustained. The colonies *must be supplied*, and the depressed state of their products will not allow them to bear any increase of their burthens, especially in the necessaries of life. Canada cannot supply them to a greater extent than at present. The flour from the Baltic, if it can be obtained, will be at very advanced prices. They must depend for supplies upon us, which they will obtain from



neighboring ports, to which it would be carried by our vessels. The quantity of articles sold in the West Indies and the navigation employed, will not be changed ; but if we permit British or neutral vessels to carry direct to the colonies, we shall lose all the carrying trade. The situation of the colonists will scarcely bear the increased expense of the indirect voyage. During the non-intercourse between 1810 and 1822, the colonists complained, in numerous petitions, of the pernicious effect of the restrictive system. It produced such a derangement in the trade, such irregular supplies, advanced prices and want of market, that the Government was obliged to relieve them by opening the ports. We shall hear the same thing again.

All the merchants concur in representing the trade as not profitable. Expenses are sustained on all the home voyages ; the very exportation duties alone are heavy burthens on the trade. It will further appear that our exportation to the West Indies, and the shipping employed, during the years 1820, 1821, and 1822, were not diminished. Our productions found a market wherever West India productions were wanted. The colonists were obliged to find the article where it was to be had and the exchanges of their productions were necessarily made wherever they found our supplies.

The Committee believe, from the information alluded to, that no injury will be sustained in the sale of the articles for that market ; that this part of the interdict is an essential prohibition, without which it will fail to produce its effect.

It is recommended to close the communication with the North American possessions, for a reason equally obvious. They are left open to the British regulations in order to draw our provisions, lumber and live stock to those markets, by which means the colonies will be supplied, at prices somewhat increased, but cheaper than from elsewhere ; and the great object of all these regulations, the carrying of these articles from those ports to the West Indies, will be secured to British shipping. Without this precaution the interdict will be more than useless.

The effect of closing these ports will be to concentrate our trade in one of the ports adjacent to the British colonies, to which it will be carried by our vessels. Without this provision the trade of the North American States would concentrate in the Northern British possessions and exclude our shipping.

But it is said that Great Britain will intercept the communication between these intermediate ports and her colonies. No apprehension of this can be indulged. Her colonists could not sustain such a state of things. It would produce inevitable ruin. They did not venture to resort to that violent remedy in 1821 and 1822, and, if she does, the effect could be scarcely felt by us. Whatever they consume must be taken from the general market, and will so far diminish the supply in that market. But this measure could not be effected but by a non-intercourse with all the West India Islands in American produce.

The British West India colonies are in a most depressed state ; their productions are reduced to the minimum ; they meet with a pow-



erful competition from the other Islands, in every market except England, and even there they must be protected from the sugars of the Island of Mauritius and the East Indies. They require to be supplied direct, and at the least expense, from the United States, to maintain themselves. The increased price, the natural effect of irregular supplies, and the expense of long voyages, could not be tolerated there long.

By permitting our productions to go direct by the vessels of other foreign Powers, or circuitously by her Northern possessions, we lose the carrying, without benefitting the agricultural interest of the country. By the other course recommended, our productions, carried in our own vessels, will find a ready market. Our interdict will be felt, and the only operation of the British interdict will be to burthen more heavily the colonies, already sinking under the pressure of other causes operating on them.

Great Britain, in applying the interdict, either had in view a free intercourse or entire exclusion. We report a bill to meet either emergency.

Your committee having presented their views to the Senate, with the accompanying bill, indulge a hope that the terms proposed will be acceptable to Great Britain; that the commerce will return to its wonted channels, and that the two countries, though touching at many points, but rivals in none, will pursue their march in the high career that lies before them, not in the spirit of commercial jealousy, but with a generous and noble competition.